

## § 1160.605

## 7 CFR Ch. X (1–1–09 Edition)

(c) Verify the eligibility of all persons voting in the referendum by reviewing all ballots cast to assure that each ballot:

(1) Was mailed within the prescribed time;

(2) Contains all certifications required attesting to the eligibility of the person to vote, and that the person voting filed with the referendum agent prior to the voting period the advance registration required pursuant to § 1160.606(a)(1); and

(3) Was completed with respect to all necessary information pertinent to the identification of the person voting so that additional verification can be conducted by the referendum agent to substantiate the eligibility of each such person to vote.

(d) Conduct further verification, as necessary, to determine the eligibility of each person to vote. Such verification may be completed by reviewing readily available sources of information, including the following:

(1) Records of the Department;

(2) Fluid milk processors' records; and

(3) Any other reliable sources of information which may be available to the referendum agent.

(e) Further verify ballots to avoid a duplication of votes. The following criteria shall serve as a guide:

(1) Each fluid milk processor that is other than an individual shall be regarded as one person for voting purposes;

(2) No more than one vote may be cast on behalf of any one fluid milk processor; and

(3) In the event that more than one individual claim the right to vote and cast a ballot for a fluid milk processor, concurring votes of such individuals shall be treated as one vote while any conflicting votes shall thereby invalidate all ballots cast by such individuals.

[58 FR 62503, Nov. 29, 1993, as amended at 62 FR 3983, Jan. 28, 1997]

### § 1160.605 Scheduling of referendum.

A referendum shall be held:

(a) Whenever prescribed by the order;

(b) For the purpose of adjusting the rate of assessment:

(1) At the direction of the Secretary; or

(2) Upon request of the Board or upon request of any group of fluid milk processors that marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by all processors of fluid milk in the United States during that period; or

(c) For the purpose of suspending or terminating the order:

(1) At the direction of the Secretary; or

(2) Upon request of the Board or upon request of any group of fluid milk processors that marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by fluid milk processors voting in the preceding referendum.

[62 FR 3984, Jan. 28, 1997]

### § 1160.606 Notice of referendum.

The referendum agent shall provide at least 30 days' notice of any referendum authorized by the Act by:

(a) Mailing to each known person processing fluid milk products a notice of referendum, which shall include:

(1) An advance registration form to be filed with the referendum agent prior to the voting period by any person choosing to vote in the referendum, with a statement as to the time within which the registration form must be mailed to the referendum agent;

(2) A copy of the final rule, when applicable;

(3) A sample ballot containing a description of the question(s) upon which the referendum is being held; and

(4) Rules for participating in the referendum, including a statement as to the time within which the ballot must be mailed to the referendum agent; and

(b) Giving public notice of the referendum:

(1) By furnishing press releases and other information to available media of public information (including but not limited to press, radio, and television facilities) announcing the time within which ballots must be completed and mailed to the referendum agent, eligibility requirements, required certifications to cast a valid

## Agricultural Marketing Service, USDA

## § 1170.3

ballot, where additional information, ballots and instructions may be obtained, and other pertinent information; and

(2) By such other means as the referendum agent may deem advisable.

### § 1160.607 Tabulation of ballots.

(a) The referendum agent shall verify the validity of all ballots cast in accordance with the instructions and requirements specified in §§ 1160.602 through 1160.606. Ballots that are not valid shall be marked “disqualified” with a notation on the ballot as to the reason for the disqualification.

(b) The total number of ballots cast, including the disqualified ballots, shall be ascertained. The number of ballots cast approving, the number of ballots cast disapproving, and the pounds of fluid milk products distributed during the representative period by the processors represented in each grouping of ballots, shall also be ascertained. The ballots marked “disqualified” shall not be considered as approving or disapproving, and the persons who cast such ballots shall not be regarded as participating in the referendum.

(c) The referendum agent shall notify the Administrator of the number of ballots cast, the count of the votes, the number of disqualified ballots, and the volume of fluid milk products associated with the ballots cast as prescribed in § 1160.607(b). The referendum agent shall seal the ballots and transmit to the Administrator a complete detailed report of all actions taken in connection with the referendum and all other information furnished to or compiled by the referendum agent.

(d) Announcement of the results of the referendum will be made only at the direction of the Secretary. The referendum agent or others who assist in the referendum shall not disclose the results of the referendum or the total number of ballots and votes cast.

### § 1160.608 Confidential information.

The ballots cast, the identity of any person who voted, or the manner in which any person voted and all information furnished to, compiled by, or in the possession of the referendum agent, except the list of eligible voters, shall be regarded as confidential.

### § 1160.609 Supplementary instructions.

The Administrator is authorized to issue instructions and to prescribe forms and ballots, not inconsistent with the provisions of this subpart, to govern the conduct of referenda by referendum agents.

## PARTS 1161–1169 [RESERVED]

## PART 1170—DAIRY PRODUCT MANDATORY REPORTING

### Sec.

- 1170.1 Secretary.
- 1170.2 Act.
- 1170.3 Person.
- 1170.4 Dairy products.
- 1170.5 Manufacturer.
- 1170.6 Store.

### DAIRY PRODUCT REPORTING PROGRAMS

- 1170.7 Reporting requirements.
- 1170.8 Price reporting specifications.
- 1170.9 Price reporting exemptions.
- 1170.10 Storage reporting specifications.
- 1170.11 Records.
- 1170.12 Confidential information.

### VERIFICATION AND ENFORCEMENT

- 1170.13 Verification of reports.
- 1170.14 Noncompliance procedures.
- 1170.15 Appeals.
- 1170.16 Enforcement.

AUTHORITY: 7 U.S.C. 1637–1637b, as amended by Pub. L. 106–532, 114 Stat. 2541 and Pub. L. 107–171, 116 Stat. 207.

SOURCE: 73 FR 34181, June 17, 2008, unless otherwise noted.

### § 1170.1 Secretary.

*Secretary* means the Secretary of Agriculture of the United States or any other officer or employee of USDA to whom authority has been delegated.

### § 1170.2 Act.

*Act* means the Agricultural Marketing Act of 1946, 7 U.S.C. 1621 *et seq.*, as amended by the Dairy Market Enhancement Act of 2000, Public Law 106–532, 114 Stat. 2541, and the Farm Security and Rural Investment Act of 2002, Public Law 107–171, 116 Stat. 207.

### § 1170.3 Person.

*Person* means an individual, partnership, corporation, association, or any other business unit.